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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

SERGIO OLIVAN,

Defendant and Appellant.

B264567

(Los Angeles County
Super. Ct. No. BA427289)

APPEAL from an order of the Superior Court of Los Angeles County, Craig E. Veals, Judge. Affirmed.

Michelle T. Livecchi-Raufi, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Sergio Olivan filed a petition for modification of sentence that sought to have his felony conviction for possession of a controlled substance (methamphetamine) (Health & Saf. Code, § 11377, subd. (a)) resentenced as a misdemeanor pursuant to Proposition 47 (Pen. Code, § 1170.18).¹ The prosecutor did not object, and recommended the trial court resentence defendant to one year in custody concurrent with his three-year term on his firearm possession conviction. The trial court granted the petition and resentenced defendant on his conviction for possession of a controlled substance to a concurrent one-year term.

Defendant's appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 requesting this court to conduct an independent review of the record to determine if there are any arguable issues. On December 10, 2015, we gave notice to defendant that counsel had failed to find any arguable issues and defendant had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments he wished this court to consider. Defendant did not file a brief or letter.² We affirm.

DISCUSSION³

The trial court's minutes for the April 20, 2015, hearing on defendant's Proposition 47 petition contain a clerical error. The minutes state the trial court

¹ In the underlying case, in addition to pleading no contest to possession of a controlled substance, defendant pleaded no contest to possession of a firearm by a felon. (Pen. Code, § 29800, subd. (a)(1).) (In defendant's opening brief, defense counsel incorrectly states defendant's Proposition 47 petition also concerned defendant's conviction for possession of a firearm by a felon.) The trial court sentenced defendant to a three-year term in state prison for his firearm possession conviction, and to a concurrent 16-month term for his conviction for possession of a controlled substance.

² The United States Postal Service returned our notice to defendant. Defendant apparently was released from custody and did not provide a forwarding address.

resentenced defendant to a consecutive rather than a concurrent one-year term. We order the trial court's minutes modified to reflect the oral pronouncement of sentence by stating that defendant's one-year term for his conviction for possession of a controlled substance was to run concurrent with his three-year term for possession of a firearm. (Cal. Rules of Court, rule 8.155(c); *People v. Mitchell* (2001) 26 Cal.4th 181, 185.)

We have otherwise reviewed the record and are satisfied that defendant's counsel has fully complied with her responsibilities and no other arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The order is affirmed.

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KUMAR, J.*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

³ We omit a recitation of the facts concerning defendant's underlying offenses as defendant's appeal is from an order granting a post-judgment petition for resentencing concerning a conviction that was based on a no contest plea.

* Judge of the Superior Court of the County of Los Angeles, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.